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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,068	11/27/2001	Steven Reynolds	INTE.19USU1 (ITC 4)	1074

43997 7590 06/15/2005

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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/996,068	<b>Applicant(s)</b> REYNOLDS ET AL	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 12/13/2004 have been fully considered but they are not persuasive.

Applicant argues that the motivation fails to support the combination of Hendricks and MacInnis. The examiner disagrees and notes that Hendricks does in fact receive software modules at Column 2, Line 55 for "remotely reprogramming" a set-top box.

Applicant also argues that the Lee court case states, "motivation to combine references must appear in the record". MacInnis discloses that the motivation to combine with Hendricks consists of selectively downloading different versions of software modules and data modules to a variety of potentially different terminal types (see Column 1, Lines 15-18).

Therefore, the examiner has provided proper motivation to combine Hendricks and MacInnis.

Applicant also argues that MacInnis fails to disclose different stream types. See Figure 3A, where the table defines the different stream types that can be received.

Applicant also argues that MacInnis also fails to disclose a system for determining what content streams may be utilized by a system. The purpose of combining MacInnis with Hendricks is to teach this limitation (see Column 4, Lines 10-12, 22-30 and 63-66 of MacInnis).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,408,437) in view of MacInnis (U.S. Patent No. 6,487,723).

Referring to claim 6, Hendricks discloses audio, video and metadata content and a menu indicating the contents of said audio, video and metadata content (see Figure 12b for a menu, which contains the video ("Program in Progress"), audio (the audio that accompanies the "Program in Progress"), and metadata (the program descriptions, e.g. "NBC Nightly News (NBC)").

Hendricks also discloses transferring preloaded metadata associated with said broadcast stream to a receiver (see Column 7, Lines 20-27 for sending a package of menus, programs, advertisements and a program control signal to a receiver).

Hendricks also discloses storing the preloaded metadata in the receiver (see Column 10, Lines 2-3).

Hendricks also discloses receiving said broadcast stream (see Column 9, Lines 62-67).

Hendricks also discloses displaying said menu wherein said menu includes an icon representing said preloaded metadata (see Column 10, Lines 14-26).

Hendricks also discloses receiving a user input (see Column 10, Lines 37-40).

Hendricks also discloses rendering said preloaded metadata during airing of said broadcast stream in response to said user input (see Column 10, Lines 25-36 and also note Figure 12b for displayed a program that is currently being broadcasted while displaying the menu with the preloaded metadata).

Hendricks further discloses that the system can adapt to the requirements of an individual set top box (see Column 9, Lines 2-6), but fails to disclose that a receiver is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream. MacInnis discloses downloading a requirements table for different types of data, and using such a table for checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream (see Column 4, Lines 10-12, 22-30 and 63-66).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the broadcast package delivery system, as taught by Hendricks, utilizing the receiver compatibility table, as taught by MacInnis, for the purpose of selectively downloading different versions of software modules and data modules to a variety of potentially different terminal types (see Column 1, Lines 15-18 of MacInnis).

3. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,408,437) in view of Knudson et al. (U.S. Patent No. 6,536,041) in further view of MacInnis (U.S. Patent No. 6,487,723).

Referring to claim 7, Hendricks discloses an audio and video source having an output (see Column 6, Lines 19-26).

Hendricks also discloses metadata used in packaging audio, video and metadata (see Column 6, Lines 51-53).

Hendricks also discloses a framework controller that receives said video source, audio source, and metadata source and produces an omnimedia package integrating said outputs of said video source, said audio source, and said metadata source into a framework (see Column 6, Lines 33-36).

Hendricks also discloses a framework definition module that interfaces with said framework controller and defines all content to be used in said omnimedia package (see Column 6, Lines 48-51 and Lines 63-65), which comprises various stream types (see again Column 6, Lines 33-36).

Hendricks also discloses a delivery module that receives said omnimedia package from said framework controller and transmits said omnimedia package to a plurality of receivers (see Column 7, Lines 63-67 and Column 8, Lines 1-9).

Although Hendricks discloses the use of metadata in creating a package of programming signals, Hendricks fails to specifically disclose a separate metadata source having an output. Knudson discloses different metadata sources that provide both program schedule information and real-time data (see Figure 1 and Column 5, Lines 25-62 and Column 6, Lines 26-30).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the operations center, as taught by Hendricks, using

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the separate metadata source, as taught by Knudson, for the purpose of providing real-time data to supplement the program listings data used in interactive television program guides (see Column 1, Lines 9-12 of Knudson).

Hendricks further discloses that the system can adapt to the requirements of an individual set top box (see Column 9, Lines 2-6), but fails to disclose that a receiver is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream. MacInnis discloses downloading a requirements table for different types of data, and using such a table for checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream (see Column 4, Lines 10-12, 22-30 and 63-66).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the broadcast package delivery system, as taught by Hendricks, utilizing the receiver compatibility table, as taught by MacInnis, for the purpose of selectively downloading different versions of software modules and data modules to a variety of potentially different terminal types (see Column 1, Lines 15-18 of MacInnis).

Referring to claim 8, see the rejection of claim 7 for a receiver (that receives the omnimedia package) that is capable of checking stream type to determine which streams may be used by said receiver prior to transmission of said broadcast stream.

Hendricks discloses rendering selected streams of said various streams (see Figure 12b), and that said receiver further coupled to at least one user input device that

provides interactivity between said viewer and said receiver (see Column 12, Lines 38-40).

Referring to claim 9, Knudson discloses synchronizing at least one metadata stream type with an event (see Column 12, Lines 38-67).

Referring to claims 10-11, see the rejection of claims 7-8, respectively.

#### ***Allowable Subject Matter***

4. Claims 1-5 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art of record fails to anticipate or rendered obvious a system that compares and converts audio, video and metadata formats to a proper audio, video and metadata transmission format according to the streams types that are compatible with a specific type of receiver.

Many references contain packaging signals (audio, video and metadata (EPG or real-time program related data)) and filtering signals based upon version type and amount of available memory (see Hendricks and MacInnis combination above), but fail to discloses comparing and converting the formats of these data streams (audio, video and metadata) in accordance with a particular transmission format.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2614

June 9, 2005



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